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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/795,898

03/08/2004

Dominique Nicolas Cade

25692a

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28523

7590

03/06/2009

PFIZER INC.  
PATENT DEPARTMENT, MS8260-1611  
EASTERN POINT ROAD  
GROTON, CT 06340

EXAMINER

LEE, EDMUND H

ART UNIT

PAPER NUMBER

1791

NOTIFICATION DATE

DELIVERY MODE

03/06/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

~IPGSGro@pfizer.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/795,898	<b>Applicant(s)</b> CADE ET AL.	
	<b>Examiner</b> EDMUND H. LEE	<b>Art Unit</b> 1791	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-17 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-12 is/are allowed.
- 6) ☒ Claim(s) 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogi (USPN 4155478). Ogi teaches the claimed inventions as evidenced by the entire specification and fig 1. It should be noted that casing 1 constitutes a capsule, and the mold of Ogi constitutes the claimed sealing clamp that clamps and holds the capsule. It should be noted that the limitation regarding the material of the capsule has not been given patentable weight since it is not related to the apparatus, i.e., the capsule is the article acted upon by the claimed apparatus and not a structural part of the claimed apparatus. It should also be noted that injection mold inherently have injection ports.

3. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogi (USPN 4155478). The above teachings of Ogi are incorporated hereinafter. In regard to 15, recycle means within molds are well-known in the molding art in order to reduce manufacturing costs. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include liquid recovery grooves in the apparatus of Ogi in order to achieve the above result. In regard to claim 16, molds having airing and suction ports are well-known in the molding art in order to efficiently fill a mold cavity. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include an airing and a suction port in apparatus of Ogi

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in order to achieve the above result. In regard to claim 17, the specific design of the mold groove/cavity is a mere obvious matter of choice dependent on the desired final product and of little patentable consequence to the claimed apparatus since it is not a manipulative feature or step of the claimed apparatus. Further, molds having injection grooves are well-known in the molding art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to design the apparatus of Ogi to have the claimed groove in order to form an article having a protruding band.

4. Claims 9-12 have been allowed.

5. Applicant's arguments filed 10/29/08 have been fully considered but they are not persuasive.

Applicant argues that Ogi does not teach overlapping, abutting parts. This is clearly misplaced since Figs 1 of Ogi clearly shows overlapping, abutting parts. .

Applicant argues that Ogi does not teach a capsule of pharmaceutically acceptable material. As stated above, this limitation has not been given patentable weight since it has no bearing on the claimed apparatus. The capsule is the article acted upon by the apparatus and not a structural part of the apparatus.

Applicant argues that Ogi has a key joint whereas the instant capsule does not. This argument is misplaced since it is related to the design of the capsule, which is not a structural part of the claimed apparatus.

Applicant argues that the casing, mold, and injection molding of Ogi cannot be related to the claimed capsule and clamp. This argument is misplaced since the injection molding process of Ogi is an insert injection molding process, wherein the preforms (capsule halves) are placed in an injection mold and the overlapped edges are joined by an injected material. As known in the insert molding art and those skilled in the art, preforms are typically held in position in the mold by the mold halves in order to ensure that they do not shift or move during molding. This holding by the mold would constitute the claimed clamp. Since the molding of Ogi is an insert injection molding process, the apparatus of Ogi can be compared to the claimed apparatus.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following USPNs teach the state of the art: 3073087 and 4415387.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571.272.1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDMUND H. LEE  
Primary Examiner  
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/EDMUND H. LEE/

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